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12 WIDE MERCHANT INVESTMENT, INC.,
13 WIDE MERCHANT HOLDINGS, INC.
14 BLUE COAST SERVICE, INC.
15 DAVID BOEM JOON KIM

16 **UNITED STATES DISTRICT COURT**
17 **CENTRAL DISTRICT OF CALIFORNIA**
18 **WESTERN DIVISION**

19 BRANDON CALLIER, an individual,

Case No. 2:24-CV-10131-MEF-JC

20 Plaintiff,

21 vs.
REPLY IN SUPPORT OF MOTION TO
DISMISS PLAINTIFF'S FIRST
AMENDED COMPLAINT

22 WIDE MERCHANT INVESTMENT, INC., a
23 dissolved California corporation, WIDE
24 MERCHANT HOLDINGS, INC., a Nevada
25 corporation, BLUE COAST SERVICE, INC., a
26 Nevada corporation, and DAVID BOEM JOON
27 KIM, an individual,

28 Defendants.

Date: May 29, 2025
Time: 10:00 A.M.
Judge: Hon. Maame Ewusi-Mensah
Frimpong

29 Defendants Wide Merchant Investment, Inc., Wide Merchant Holdings, Inc., Blue Coast
30 Service, Inc., and David Boem Joon Kim (collectively, "Defendants") respectfully submit the
31 following reply memorandum in support of their Motion to Dismiss Plaintiff's First Amended
32 Complaint (the "Motion"). Defendants filed their Motion and supporting papers on April 14,
33 2025, setting a hearing on the Motion for May 29, 2025. (ECF Dkt. #24 & #25.) Under Local
34 Rule 7-9, if Plaintiff intended to oppose Defendants' Motion, Plaintiff's opposition would have
35 been due on April 8, 2025 (i.e., twenty-one (21) days before the May 29, 2025 hearing date).

1 Plaintiff, however, did not file any opposition to Defendants' Motion. Under Local Rule 7-12,
2 Plaintiff's failure to file any opposition may be deemed as Plaintiff's consent to the granting of
3 the Motion.

4 As set forth in the Motion, Plaintiff's First Amended Complaint should be dismissed for
5 the following reasons:

- 6 (1) All of Plaintiff's claims fail as a matter of law because Plaintiff is precluded from
7 reasserting an agency relationship between Synergy Financial and Wide Merchant
8 Investment.
- 9 (2) Plaintiff's Vicarious Liability cause of action fails to state facts sufficient to assert
10 this claim. Specifically, it fails to allege sufficient facts showing Defendants
11 authorized or controlled Synergy's telemarketing conduct.
- 12 (3) Plaintiff's Successor Liability cause of action fails to state facts sufficient to assert
13 this claim. Specifically, it fails to demonstrate any of the four limited exceptions to
14 the general rule against corporate successor liability.
- 15 (4) Plaintiff's Texas statutory claims fail as a matter of law as it conflicts with
16 California's policy choice to prohibit private enforcement of analogous
17 telemarking laws.

18 By failing to file any opposition to the Motion, Plaintiff consents to the requests made in
19 the Motion. Accordingly, Defendants respectfully request that Plaintiff's First Amended
20 Compliant be dismissed without leave to amend.

21 DATED: May 15, 2025

BUCHALTER
A Professional Corporation

22 By: 

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24 GABRIEL G. GREEN
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ELAINE Y. CHENG
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Attorneys for Defendants
WIDE MERCHANT INVESTMENT, INC.
WIDE MERCHANT HOLDINGS, INC.
BLUE COAST SERVICE, INC.
DAVID BOEM JOON KIM

Certification of Compliance

The undersigned, counsel of record for Defendants Wide Merchant Investment, Inc., Wide Merchant Holdings, Inc., Blue Coast Service, Inc., and David Boem Joon Kim certifies that this brief contains 298 words, which complies with the word limit of L.R. 11-6.1.

DATED: May 15, 2025

BUCHALTER
A Professional Corporation

By:

GABRIEL G. GREEN
ARTIN BETPERA
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WIDE MERCHANT INVESTMENT, INC.
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